



South Carolina House of Representatives

Legislative Update

James H. "Jay" Lucas, Speaker of the House

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HOUSE WEEK IN REVIEW

The House of Representatives and the Senate adopted the free conference report on **H.3663** and ratified the joint resolution which the Governor signed into law. The legislation establishes an **INTERIM GOVERNING AUTHORITY FOR SOUTH CAROLINA STATE UNIVERSITY** in order to address the school's financial crisis and academic accreditation issues and ensure the continuing viability of the institution. The legislation removes the members of S.C. State's Board of Trustees and transfers oversight and control of the institution to an Interim Board of Trustees composed of the designees of the Governor, Treasurer, State Superintendent of Education, Chairman of the House Ways and Means Committee, Chairman of the Senate Finance Committee, Chairman of the House Ways and Means Higher Education and Technical Colleges Subcommittee, and Chairman of the Senate Finance Higher Education Subcommittee. The President of the South Carolina State University National Alumni Association and the South Carolina State University Student Government Association President are to serve in an ex officio capacity as nonvoting members of the Interim Board. The Interim Board is solely responsible for the selection, periodic evaluation, and retention or termination of the university's president. The Interim Board serves up to June 30, 2018, or until the General Assembly holds elections for a new South Carolina State University Board of Trustees.

The House concurred in Senate amendments to **H.3890**, a bill revising the authority for **FORGIVING SCHOOL DAYS MISSED BECAUSE OF SNOW, EXTREME WEATHER CONDITIONS, OR OTHER DISRUPTIONS**, and enrolled the bill for ratification. Under the legislation, a local school district is authorized, through a majority vote of its board of trustees, to waive make-up requirements for up to three school days missed because of snow, extreme weather conditions, or other disruptions in situations when the year's scheduled make-up days have been used or are no longer available. After the 2014-2015 school year, such waivers may not be granted by a board until schools have made up three full days, or the equivalent number of hours. The State Board of Education, at the request of a school board, is authorized to grant waivers for up to an additional three days beyond the three days forgiven by the local school district. The State Department of Education is required to provide the General Assembly with an annual report of information from each district that provides detail on the number of days missed and the reason, make-up days, and waivers granted. Currently, the forgiveness of missed school days requires an approval of some kind from the General Assembly.

The House concurred in Senate amendments to **H.3683** and enrolled the bill for ratification. The legislation requires that the **ADJUTANT GENERAL'S ANNUAL REPORT ON THE SOUTH CAROLINA NATIONAL GUARD** be submitted to the General Assembly as well as to the Governor.

The House approved **S.578**, relating to **TIDELANDS AND WETLANDS MINOR CONSTRUCTION ACTIVITIES**, and enrolled the bill for ratification. The legislation makes provisions for a three-year statute of limitations on enforcement violations on minor development activities. An exception is provided to address situations when the alleged violator knowingly or intentionally withheld information regarding the alleged violation. Failure to obtain required permits and modifications before commencing development activities must be considered to be an act of concealment. This legislation

applies to all enforcement actions pending as of January 1, 2015 and all future enforcement actions.

The House voted not to concur in Senate amendments to **S.11**, a bill **ENHANCING PUBLIC NOTICE REQUIREMENTS FOR GOVERNMENT MEETINGS** under the state's Freedom of Information Act.

The House amended, approved, and sent the Senate **H.3151**, a bill **REVISING AMERICAN CIVICS INSTRUCTION REQUIREMENTS FOR PUBLIC HIGH SCHOOLS AND PUBLIC INSTITUTIONS OF HIGHER LEARNING** in the state. The legislation revises the requirements that all public high schools and all public institutions of higher learning provide instruction in the essentials of the United States Constitution, the Declaration of Independence, and the Federalist Papers, including the study of American institutions and ideals, and that no student may receive a certificate of graduation without first passing a satisfactory examination on this material. The legislation eliminates the requirement for students who are American citizens to affirm their loyalty. In addition to this required instruction on the U.S. Constitution and other essential texts, the legislation provides that the same such instruction must be given in African-American history and in Native-American history of the Aboriginal peoples indigenous to South Carolina.

The House gave second reading approval to **H.4080**, a joint resolution creating a temporary **VOTING SYSTEM STUDY COMMITTEE** to review information regarding the most current voting technology and make findings and recommendations on such matters as: voter-verified paper audit trail voting systems; the comparative security of all voting systems evaluated; the costs of acquiring, implementing, and maintaining various systems; the current canvassing schedule as it relates to the ability to conduct random audits of election results; and, amendments to voting machine statutes. Composed of three members of the House of Representatives, appointed by the Speaker of the House, three members of the Senate appointed by the Speaker Pro Tempore of the Senate, and one member appointed by the Governor, the study committee must make its report to the General Assembly by January 31, 2016, at which time it is dissolved.

HOUSE COMMITTEE ACTION

JUDICIARY

The House Judiciary Committee passed out the following bills on Tuesday, May 5, 2015:

The Committee approved **S. 179** regarding **POWDERED ALCOHOL**. This bill amends the definition of “alcoholic liquors” to include powdered and crystalline alcohol used for human consumption, and then defines “powdered or crystalline alcohol.” Possession, use, sale, or purchase of crystalline alcohol except in specified circumstances (the statute already includes powdered alcohol) is a criminal offense under this measure.

The Committee approved, as amended, **S. 183** which incorporates Uniform Law Commission recommendations regarding **HUMAN TRAFFICKING** by defining who is considered a trafficker; providing for expungement of prostitution convictions for victims of human trafficking; establishing a safe harbor for minors who are victims of human trafficking; excluding evidence of a victim’s sexual history or history of commercial sexual activity, the specific instances of a victim’s sexual conduct, opinion evidence of a victim’s sexual conduct, and reputation evidence of a victim’s sexual conduct; allowing a court to disgorge profits and disbar from state or local government contracts any business that aids or participates in a human trafficking offenses; and providing that an offender can be ordered to pay attorney’s fees and an amount representing the value of the victim’s labor or services as a part of restitution. The SC Attorney General Interagency Task Force for the Prevention of Trafficking in Persons can make grants to, or contract with, agencies or victim’s services organizations to develop or expand victim services.

The Committee approved, as amended, **S. 255 EXPUNGEMENTS** to fix a problem where people were not able to get their records expunged after a charge had been dismissed. It also requires, with some exceptions, the removal of arrest or booking records from websites when charges have been dismissed or an accused is found not guilty. Detention and correctional facilities can maintain records beyond the time allowed if it is needed for a pending lawsuit or legal matter. It changes the time arrest or charging information must be removed from a website by starting the clock from the time the request is received as opposed to the time the request is sent.

The Committee approved **S. 426** to establish **MENTAL HEALTH COURTS** after a successful pilot program has shown the potential additional benefits of statewide implementation of this diversion program. It takes mentally ill criminal offenders away from the criminal justice system and places them into appropriate treatment programs. It would allow each circuit solicitor to establish a pre-adjudicatory or post-adjudicatory program, or a combination of both. If a solicitor accepts state funding for implementation of a mental health treatment court program, the solicitor must establish and administer it. The Chief Justice would appoint all mental health court judges. Offenders would not be eligible for the program if they are charged with, or have a prior conviction for, a violent offense, harassment, or a stalking. Offenders subject to a restraining order, an order of protection, or currently on probation (or parole) are ineligible.

The Committee approved **S. 500 UNIFORM INTERSTATE FAMILY SUPPORT ACT** to incorporate changes that were adopted by the National Conference of Commissioners for Uniform State Laws in 2008. These updates include addressing international recovery of child support and other family maintenance. It also updates procedures for paternity determination. These updates were required by the federal Preventing Sex Trafficking and Strengthening Families Act.

The Committee approved, as amended, **H. 3325** the **UNIFORM PARTITION OF HEIRS’ PROPERTY ACT**. Under this act, when a court determines real estate is heirs’ property,

then any partition of it will be governed by this law. Plaintiffs in these lawsuits who have sought notice by publication, when the property has been identified as heirs' property, must post a sign on the property within ten days that states the partition action has commenced. This sign has to be properly maintained. Courts shall determine the fair market value of the property by using a disinterested real estate appraiser. After a fair market value has been determined, if any of the property's co-owners request a partition by sale, plaintiffs must notify all parties that any co-owner may buy all of the interests of the other co-owners who have requested the property to be partitioned by sale. If a co-owner is interested in buying out the others, then the court must be notified within ten days and prior to any trial date. After this ten days has expired, this law provides procedures for plaintiffs to send notice to all parties of what happened. After this notice has been sent, if one or more co-owners elect to buy the interests of the others who requested partition by sale, the court must then set a deadline for those co-owners to pay that portion of the fair market price into the court. If any of them fail to timely pay this money, then twenty days after notice is given, any other co-owner who paid may then elect to purchase any remaining ownership interests by paying the entire buyout price into the court. The act further states that if all the interests of the co-owners that requested a partition sale are not purchased by other co-owners, or if, after conclusion of the buyout, a co-owner remains who wants a partition-in-kind or a partition by allotment, then the court shall order a partition in kind or a partition by allotment, unless the court finds that partition in kind or partition by allotment would cause manifest prejudice to the co-owners as a group. When courts are making this determination, this act sets forth several considerations for the court to make. Any court-ordered sale must be an open market one, unless the court finds that sealed bids or an auction would be more economically advantageous for the co-owners. If the court orders a sealed bid or auction sale then the order must set forth the terms and conditions of the sale. This bill also amends Section 15-61-10, which relates to partition actions, to require a court hearing to determine if the partition action lawsuit involves heirs' property. In addition, the clerk of court where the action is filed will be required to send out notice of the partition lawsuit filing.

The Committee approved, as amended, **H. 3521** **FOREIGN LAW ENFORCEMENT BAN** which prohibits courts, arbitrators, administrative agencies, or other enforcement authorities from enforcing foreign laws if that enforcement violates a federal or state constitutionally guaranteed right. When contractual agreements or provisions are in dispute and these documents state that foreign law or a foreign venue is the site where the dispute will be resolved, the contractual agreement or provision must be modified or interpreted to preserve domestic federal and state constitutional rights of the parties. If the provision or agreement is incapable of modification to preserve these constitutional rights, then the offending provision shall be considered null and void.

The Committee approved, as amended, **H. 3852** **US SAVINGS BOND ESCHEATMENTS** to set forth procedures for transferring ownership of unclaimed US savings bonds to the state. These unclaimed savings bonds would be presumed abandoned and unclaimed after five years of their final maturity date and are no longer earning interest. After the bond is unclaimed, the State Treasurer may commence a civil action to transfer it to the State. Judges in these matters must transfer these bonds when no person steps forward to claim them. Legal actions costs for the escheatment can be recovered from the bond proceeds.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

H.4120 STANDARDS FOR COMMERCIAL DOG BREEDERS Rep. Johnson

The bill establishes standards for commercial dog breeding and defines necessary terms to require a commercial dog breeder to be licensed. "Commercial dog breeder" is defined as any person or business that owns, has custody of, or maintains twenty or more female dogs over the age of six months that are capable of reproduction and kept primarily for the purpose of breeding and selling the offspring to a person, business, or pet store for resale as pets to the general public.

EDUCATION AND PUBLIC WORKS

H.4136 LICENSE PLATES FOR VETERANS Rep. Stavrinakis

This bill provides that the Department of Motor Vehicles may issue special license plates to Iraq and Afghanistan veterans.

H.4137 NFL LICENSE PLATES Rep. McKnight

This bill provides that the Department of Motor Vehicles may issue special license plates with the emblem, seal, or symbol of an NFL team to owners of private passenger motor vehicles.

H.4150 UNITED STATES CONSTITUTION DAY Rep. Long

This bill designates the seventeenth day of September of each year as United States Constitution Day.

JUDICIARY

S.55 REAPPORTIONMENT REQUIREMENTS DEADLINE Sen. Campsen

This bill amends existing state law for state political subdivisions that have publicly-elected governing boards, commissions, or councils from single-member election districts, residency requirements, or a combination of at-large and single-member

districts to set forth procedures for continued representation when reapportionment results in two or more elected members in the same election district.

S.199 *ENDANGERING A HIGHWAY WORKER* Sen. Grooms

This bill amends existing law and penalties for speeding in work zones. It creates a new section to be known as "Peanut's Law." This new law defines "highway work zone" and "highway worker." It then creates the offense of "endangerment of a highway worker," and provides penalties for violations as well as drivers' license point reductions for "endangerment of a highway worker" to a range between two and six points. It repeals and replaces existing law and penalties for bad driving in temporary work zones.

S.215 *ELECTIONS POSTPONED BY EMERGENCY EVENTS* Sen. Campsen

This bill mandates that elections will be postponed when the Governor declares a state of emergency for an entire jurisdiction holding an election. The postponed election must then be held on the first Tuesday following the original election date. For this provision to apply to statewide primaries or general elections, any state of emergency declaration must have covered the entire state. It changes the date that candidates for President and Vice-President must be certified, to the first Tuesday following the first Monday in September. For municipal elections, it provides that managers of an election shall certify results within two days of the election. Commissioners of election for statewide officers, solicitors, members of the general assembly, and county officers must meet on the Monday following an election to organize as the County Board of Canvassers. It then requires them to submit their results to the State Board of Canvassers by noon on the Tuesday following the election. It also provides that post-election audits be completed by County Boards of Registration and Election prior to certification and be open to the public. Under this proposal, for filing of statements of intent of candidacy and party pledge, the number of signed copies that must be filed is reduced from three to one. It also allows alternate paper sizes for candidacy nominating petitions or political party certification. As a final provision, this bill sets forth penalties for the premature release of ballot tabulation information.

**S.229 *CAUSING OR PERMITTING ENVIRONMENTAL POLLUTION*
Sen. Campbell**

This bill clarifies who may file petitions with SCDHEC for a declaratory ruling on the existence of any regulatory program with jurisdiction over a proposed discharge into the environment by excluding departments, agencies, commissions, departments, or state political subdivisions. These department decisions on these petitions will not be subject to judicial review in a civil proceeding. It amends the savings clause, to provide that it only applies to cases filed before June 6, 2012 as well as any federal project for which a final environmental impact statement was issued prior to June 6, 2012, but no record of decision was issued prior to June 6, 2012.

S.250 *INVOLUNTARY CHILD MEDICAL RECORDS RELEASES* Sen. Shealy

This bill allows involuntary releases children's medical records --without parental consent-- to the consulting care physician, the hospital facility, or law enforcement for indicated cases of child abuse or neglect. These entities can also receive a summary of referrals and outcomes of cases of suspected abuse or neglect that have been sent to a contracted service agency or program. It also allows SCDSS to release a summary of allegations and the investigation outcome of unfounded cases of child abuse or neglect with this official.

H. 4121 ELIMINATING DEATH BY LETHAL INJECTION Rep. Pitts

This bill eliminates the option of death by lethal injection.

H.4122 SYNTHETIC CHEMICALS DESIGNATED CONTROLLED SUBSTANCES

Rep. Williams

This bill requires the State Board of Pharmacy to quickly identify new synthetic chemical formulas, using a list of specific criteria to do so, and then issue emergency rules when needed to schedule any qualifying synthetic chemicals as controlled substances.

H.4123 SYNTHETIC CANNABOID AND CATHINONE AS CONTROLLED SUBSTANCES Rep Williams

This bill adds synthetic cannabinoid and cathinone compounds as Schedule I controlled substances.

H.4124 LAW ENFORCEMENT AUTHORITY AT MENTAL HEALTH FACILITIES Rep. Pitts

This bill updates existing state statutes to substitute 'Department of Mental Health' for 'Mental Health Commission' and 'law enforcement officers' for 'marshals' as needed to reflect current practices.

H.4125 MAGISTRATE APPOINTMENTS WITH HOUSE MEMBERS' INPUT Rep. Mitchell

This bill requires county Senatorial delegations to comply with existing state law before making magistrate appointment recommendations to the Governor. It also requires that prior to making any recommendations to the Governor, that Senatorial delegations first consult with --and receive input from --House of Representatives members representing that county at a meeting called for this purpose.

H.4126 THROWING BODILY FLUIDS Rep. Putnam

This bill includes assault and battery offenses within the throwing bodily fluids penal code when this offense is committed by arrested, detained, or incarcerated persons.

H.4134 STATE CONVENTION DELEGATES Rep. Clemmons

This bill sets the number of delegates to state conventions at one delegate for each six thousand residents of the county, plus two additional members.

H.4149 FIREARM TRANSFER CERTIFICATIONS Rep. Pitts

This bill adds terms and definitions relating to certifications issued by a chief law enforcement officer for transferring or making firearms. It also sets out the application process for issuing certifications, and the process to appeal a denial of an application for certification.

LABOR, COMMERCE AND INDUSTRY

S.135 “RYAN’S LAW” EXPANDED HEALTH INSURANCE COVERAGE REQUIREMENTS FOR AUTISM SPECTRUM DISORDER Sen. Cleary

This bill enacts “Ryan’s Law” to provide for more expansive health insurance coverage requirements for autism spectrum disorder. The legislation revises the provisions that require health insurers to provide coverage for autism spectrum disorder by eliminating: an exception provided for certain health insurance plans for individuals and small employers; limitations that establish a maximum yearly benefit amount; and eligibility provisions that restrict required coverage and benefits to those who are under sixteen years of age that have been diagnosed by age eight. The legislation also revises these coverage requirements by redefining autism spectrum disorder as any of the pervasive development disorders or autism spectrum disorders as defined by the most recent addition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) or the edition in effect at the time of diagnosis.

S.277 “STATE TELECOM EQUITY IN FUNDING ACT” Sen. Alexander

This bill enacts the “State Telecom Equity in Funding Act” as a means of updating provisions for telecommunications services for hearing and speech impaired people so that these programs can continue to be sustained in a telecommunications marketplace that has been transformed in recent years by such innovations as wireless and Internet-based services. Act 488 of 1990 authorized the Public Service Commission to establish a statewide program to provide telephone access to individuals with hearing or speech impairments, such as a dual party relay system that allows those who are deaf, hearing, and speech impaired to communicate through an intermediary party, and authorized that these programs be funded through monthly surcharges imposed on all of a local exchange telephone company’s residential and business lines. This legislation revises the funding mechanism for these programs so that surcharges are collected not only on traditional land line telephones, but also on the full array of telecommunications services offered in the contemporary market, including commercial mobile radio service (CMRS), prepaid wireless service, and Voice over Internet Protocol (VoIP) service. The legislation also repeals provisions for an advisory committee established to monitor statewide telecommunications relay access service.

H.4138 DISPLAY OF HEATING AND AIR CONDITIONING MECHANICAL CONTRACTOR CREDENTIALS Rep. Bedingfield

This bill establishes requirements for those holding licenses in the mechanical contractor subclassification of air conditioning, heating, or packaged equipment to display their mechanical contractor licenses in a conspicuous manner at their principal places of business and to display their mechanical contractor license numbers on all commercial vehicles, any advertising in the yellow pages, newspapers, websites, social media marketing, or other mediums, and also on proposals and invoices.

H.4141 “LIMITED LINES TRAVEL INSURANCE ACT” Rep. Gambrell

This bill enacts the “Limited Lines Travel Insurance Act” to provide authority for travel retailers to offer and disseminate under a limited lines travel insurance producer business entity license travel insurance coverage for personal risks incident to planned travel such as: interruption or cancellation of trip or event; loss of baggage or personal effects; damages to accommodations or rental vehicles; and sickness, accident, disability, or death occurring during travel.

WAYS AND MEANS

S.675 OVERSIGHT AND GOVERNANCE OF STATE RETIREMENT SYSTEMS

Senate Finance Committee

This bill revises provisions for the oversight and governance of the state's retirement systems and the authority for investing pension system funds. The legislation provides for the Retirement System Investment Commission, rather than the State Budget and Control Board, or its successor, to serve as cotrustees with the South Carolina Public Employee Benefit Authority for the state's retirement system assets. The legislation revises the composition of the Retirement System Investment Commission and the Public Employee Benefit Authority board of directors. Minimum requirements for PEBA Board meetings are revised so that the board must meet at least quarterly, rather than monthly. The legislation establishes provisions for the PEBA Board to employ an executive director who serves as the chief administrative officer of the authority. The legislation establishes a protocol for approving all payments from the retirement system's funds or transfers between retirement system accounts necessary for the Retirement System Investment Commission to exercise its exclusive authority to invest and manage the retirement system's assets. The legislation includes authorization for the Retirement System Investment Commission to engage attorneys on a fee basis. The legislation establishes a new process for setting the assumed rate of return on pension system investments. The legislation revises the requirement for the Office of the State Inspector General to employ a private audit firm to perform a fiduciary audit on the Retirement System Investment Commission so that this required audit is performed every four years rather than annually.

H.4144 ELIGIBILITY FOR IN-STATE TUITION AT PUBLIC INSTITUTIONS OF HIGHER EDUCATION AS WELL AS STATE-SPONSORED SCHOLARSHIPS AND TUITION ASSISTANCE

Rep. Rutherford

This bill establishes provisions under which a student must be exempt from paying out-of-state tuition at a public institution of higher education in South Carolina and must be eligible for certain state-sponsored scholarships and tuition assistance if he attended a high school in this state for three or more years, graduated from a high school in the state or received the equivalent of a high school diploma in this state, registers as an entering student or is currently enrolled in a public institution of higher education not earlier than the fall semester of the 2015-2016 academic year, and, if lacking lawful immigration status, files an affidavit with the institution stating he has filed an application to legalize his immigration or will file an application when eligible.

H.4145 WORKFORCE DEVELOPMENT

Rep. White

This bill creates the Coordinating Council for Workforce Development and charges the council with council with responsibilities relating to developing and maintaining a Comprehensive Plan for Workforce Training and Education and improving coordination of workforce development in the state. The legislation provides for the creation of a State Strategic Plan for Supply of Health Care Personnel. The legislation makes provisions of the workforce development councils to develop and maintain a local unified plan for the workforce development system. The legislation provides for the development and implementation of a Career Pathways for Success Initiative. The legislation establishes a Pathways to First Careers Program and a Pathways to New Opportunities Program. The legislation establishes a tax credit for those who hire an

apprentice. The legislation creates a Workforce Scholarship and Grant Fund and a tax credit for those who contribute to the grant fund.

H.4151 STAMP TAX ON CIGARETTES Rep. Pitts

This bill revises provisions relating to the stamp tax on cigarettes and tobacco products, so as to require and provide for the proper affixing of cigarette tax stamps, including: provisions for exempt packages; unique serial numbering of stamps; license revocation for violators; and, limitations on the receipt and sale of untaxed cigarettes. The legislation provides for return and payment of the tax and authorizes the Department of Revenue to promulgate regulations necessary to establish, implement, and enforce these provisions.

H.4152 INCOME TAX RELIEF Rep. Hicks

This bill provides for individual income tax reduction under a schedule that, beginning after 2014, reduces the rate of taxation by one quarter of one percent each year for four years with tax bracket reductions becoming permanent after 2018.

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Legislative Update, May 12, 2015

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